

Town of Ulster
Zoning Board of Appeals
November 13, 2019

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held at the Town of Ulster Town Hall on November 13, 2019, at 7:00 P.M.

Present:

Brian Ilgner
Lois Smith – Vice Chairman

Robert Porter
Geoffrey Ring – Chairman

Absent:

Renato DiBella (resigned)

Roll call.

A motion to approve the minutes from the October 2019 meeting was made by Ms. Smith with a second from Mr. Porter; all in favor.

PUBLIC HEARING

Stewart's Shops – Area Variance

45 Boices Lane

SBL: 48.42-2-5

Zone: LC

Z-375

Marcus Andrews, Stewart's Shops, appeared on behalf of the application for an area variance to construct a gas canopy within the front setback. Mr. Andrews explained that Stewart's is concurrently before the Planning Board for site plan approval to construct an addition on the northern end of the building and reconfigure the gas canopy, as well as parking. Mr. Andrews stated that Stewart's will be changing their façade; the upper half will be painted, and the lower half will be stone and the expansion will have a false window to make it aesthetically pleasing.

Mr. Andrews explained that he is before the ZBA for a variance to place their proposed canopy within the front setback. The canopy will have four (4) fueling islands, one of which will have a three plus one (3+1) for low-flow diesel. Mr. Andrews explained the proposed canopy will create better flow of traffic through the lot. The proposed canopy is pulled further away from the building which is why they require a variance.

The existing canopy is one-thousand, two hundred and twenty-two square feet (1,222 sf) and the proposed canopy will be two-thousand six-hundred and sixty-eight square feet (2,668 sf), which is a little more than double the size. Mr. Andrews stated that the canopy will look the same as the existing canopy, it will just be larger.

Mr. Andrews stated that they had done a basic rendering showing the intersection and the proposed canopy. Mr. Ring asked how high the canopy is and Mr. Andrews responded that the canopy is seventeen point six feet (17.6') tall with a fascia of three feet (3'), leaving the open space to be thirteen point six (13.6'), which complies with fire code.

Ms. Smith asked why Stewart's needs the increase in canopy size and Mr. Andrews stated that this is a well-used Stewart's shop for gas so they want to offer additional gas pumps, as well as

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opening up the space in front of the shop making for better traffic flow for vehicles and pedestrians.

Chairman Ring asked if there were any visibility studies done and Mr. Andrews stated that there is ample room for visibility with the height of the canopy.

Chairman Ring opened the Public Hearing. There was no public comment. A motion to close the public hearing was made by Mr. Ilgner, with a second from Mr. Porter; all in favor.

There was a brief discussion amongst the Board. Ms. Smith liked the idea and was happy that emergency vehicles would still be able to enter the area. Mr. Porter like the idea of the opening of the area in front of the shop doors as people who have disabilities and park in that spot can't get out easily with the current configuration of the lot.

Ms. Smith asked how long the project would take to complete and Mr. Andrews stated probably six to eight weeks total. Mr. Porter asked if Stewart's will put enough information out there so customers will be aware that if anything is blocked off or closed people won't block the road. Mr. Andrews stated that plans will be displayed in the shop to customers and employees will be aware. Customers will also be able to ask the partners in the store any questions regarding the changes. Mr. Andrews stated that there will be small temporary signs stating the dates when they will reopen.

Mr. Ilgner asked if this was the only non-ethanol store and Mr. Andrews stated that they try to install that everywhere they can, but it is County based; some counties allow it and some don't, such as Orange County. The Hurley Avenue, Route 28 and Lake Katrine stores have non-ethanol fuel.

Action: A motion to approve the area variance for the gas canopy was made by Mr. Porter, with a second from Ms. Smith; all in favor.

Alexandra Peppis – Area Variance
639-641 Ulster Landing Road
SBL: 40.13-1-33
Zone: R60
Z-372

Mr. Ring opened the public hearing.

Alexandra Peppis, owner of the property located at 639-641 Ulster Landing Road, and Paul Martino appeared before the Board for an area variance to allow her to subdivide her parcel into two parcels. Ms. Peppis is proposing one sixty-thousand square foot (60,000 sf) lot and one twenty-four thousand one-hundred and fourteen square foot (24,114 sf) lot. Ms. Peppis proposes to divide the barn property from her property as it is being underutilized and believes it's viable to have in place for future use depending how life progresses.

Ms. Peppis stated that the house and garage, as it exists, is naturally contained onto her lot and she can not see the proposed barn lot from her home due to the trees and rock ledge. Ms. Peppis explained that from the proposed barn lot, her home and the garage are not visible, so it's like a completely different entity.

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Ms. Smith asked Ms. Peppis if the barn was still there, and Ms. Peppis stated that on Monday morning a large oak tree fell on the barn and took out a portion of it, but the barn is still there, hidden by the oak tree. Mr. Martino stated that they are in contact with tree companies to remove the tree, as well as the insurance company. Ms. Peppis stated that now the plan has changed as it will be difficult to get to the tree due to the slope of land. Ms. Peppis stated that it is devastating and her entire plan with that property has now changed. Mr. Martino stated that the subdivision would open Ms. Peppis's options on what she can do with that lot.

Chairman Ring asked if there was any public comment.

Mr. Robert Brooks, 620 Ulster Landing Road – Mr. Brooks lives across the street and asked what the plan for the subdivided lot would be if the variance was granted. Ms. Peppis responded that there currently is no plan but that a friend of hers is a land-flipper and told her that laws continue to change and while she has the option to subdivide her property, being there's a significant chunk of it sitting there doing nothing, she should apply for a variance since it's still a possibility. Mr. Brooks stated that he has just under five (5) acres across the road and had thought about subdividing it. Mr. Brooks explained that because the road is a forty mile and hour (40 mph) and a corkscrew type road, that his is the last possible driveway that would be viable on Ulster Landing. Mr. Brooks is concerned if someone puts a new driveway in, there would be in sufficient line-of-sight access to the road. Mr. Martino stated that the driveway would be directly across Mr. Brooks driveway.

Mr. Ring explained that if the variance was granted, the proposed barn property would be sixty-thousand square feet (60,000 sf), which meets the minimum lot requirements for R60 and can put a single-family home on said property. In order to get a mobile home, they would need approval to place a mobile home out of a mobile home park. The new property would have to follow the Town's Codes, so a single-family residence or a two-family residence would be allowed by right. Mr. Ring explained the proposed subdivision to Mr. Brooks and Mr. Brooks understood.

Ms. Peppis stated that she lives there and does not want any "development" next to her home as she likes it quiet.

Mr. Ring read a letter aloud received from Amber Noelle Mitchell, neighbor, and Ralph Mitchell, father. The letter went into the five (5) requirements of an area variance that must be proved and whether Ms. Peppis would meet said requirements.

Ms. Peppis and Mr. Martino stated that Ms. Mitchell has an "ax to grind" with them and Mr. Ring stated that it was not relevant to the variance request.

A motion to close the public hearing was made by Mr. Ring, with a second from Mr. Ilgner; all in favor. Mr. Porter recused himself from voting on advice from counsel.

Ms. Smith stated that she just wanted to clarify something. Mr. Smith explained that somewhere it was stated that the driveway would be placed on the hard turn on Ulster Landing Road and she wanted to clarify that it is not on the turn, that it is passed the turn so it would not be a blind driveway.

Mr. Ring stated that this variance request is substantial, and it would be creating a new non-conforming lot which already has a non-conformity on it. Ms. Smith wanted to clarify that the non-conformity was the accessory apartment above the garage to which the Building Inspector,

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Warren Tutt, explained that you are allowed to have an accessory apartment up to twelve-hundred square feet (1,200 sf) as long as either the primary residence or the apartment is owner occupied. Mr. Kovacs concurred, but explained that what the Board would be approving is a new non-conforming lot if the variance was granted. Mr. Ring stated that when zoning was created, this location was zoned R60 for a reason in 1991.

Mr. Ring stated that the prior month the Board had approved a two-thousand square foot (2,000 sf) variance, but that was a minor variance and it was related to a right-of-way taking the land away from the owner. The Board agrees that this proposed variance request is significant.

Mr. Martino stated that what they are trying to do is create a conforming lot that has a natural barrier in place.

Mr. Kovacs stated that if the Board starts granting variances such as this, there will be more that will come before the Board. Mr. Ring agreed that it would set a precedence. Ms. Smith stated that the Board must follow their pre-approvals and maintain continuity. There was a brief discussion amongst the Board.

Ms. Peppis stated that it is just sitting there doing nothing to which Mr. Ring explained that it is not doing nothing, it is a part of the eighty-four thousand square feet (84,000 sf) that is a single property in an R60 Zone. Ms. Peppis stated that she can continue mowing it, but in her opinion, it would have been a viable, beautiful lot.

Action: A motion to deny the variance was made by Mr. Ring, with a second from Ms. Smith; all in favor. Mr. Porter recused himself.

A motion to adjourn was made by Mr. Ring, will a second from Ms. Smith; all in favor.

Respectfully Submitted,
Gabrielle Perea
Zoning Board Secretary